

WASHINGTON POST  
30 June 1983

STATINTL

# White House Warned On Relaxing Rules In Antitrust Cases

By Stuart Auerbach  
Washington Post Staff Writer

The Reagan administration was warned yesterday that its proposal to ease antitrust rules for joint research ventures faces trouble on Capitol Hill if it is part of a larger package that includes ending triple damage penalties for most civil antitrust cases.

Administration witnesses told the Senate Judiciary Committee that both proposals are needed to improve American industry's competitiveness in the global market.

Sen. Howard Metzenbaum (D-Ohio) said the administration proposal to remove triple damages for all but the most anticompetitive offenses would "decimate the antitrust laws of the country."

Companies that violate antitrust law now can be penalized by three times the amount of damages their anticompetitive actions were found to have cost. The law provides for treble damages as a deterrent.

The administration proposal would grant joint R&D projects immunity from private and government antitrust suits and triple damage awards if the ventures meet certain requirements. If they turn anticompetitive, however, the government can stop the ventures through a federal court injunction. Outside the R&D area, it would eliminate triple damages in all but the most flagrant antitrust violations, such as the formation of cartels or price-fixing.

While not fully agreeing with Metzenbaum, Sen. Charles McC. Mathias warned both Commerce Secretary Malcolm Baldrige and Assistant Attorney General William F. Baxter that the administration's an-

titrust amendments designed to encourage joint R&D ventures will be jeopardized if they are tied to a plan to end triple damages.

"When you attack triple damages," warned Mathias, "you are attacking one of the historic bastions of antitrust. You are going to arouse the interest, the opposition and the passions of people inside the Senate."

"You need a minimum of 60 votes to pass the bill," he continued. "I'm not sure I can count 60 votes if you get into that kind of a scrap around here."

Retired Adm. Bobby R. Inman, head of a high tech research enterprise formed by leading American electronic companies, agreed with Mathias' assessment. Inman, former director of the supersecret National Security Agency, recommended against loading the bill "like a Christmas tree."

The administration has not yet submitted its antitrust package to Congress, though it has circulated drafts on the Hill and Baxter has described it in talks to business and

legal groups. But this was the first time he and Baldrige defended the plan before a congressional committee.

The rationale for both the R&D changes and the rest of the package appeared to center on the need to increase America's competitiveness in the world economy.

Baxter made it clear he considers antitrust exemptions for joint R&D ventures "a minor problem," while the key to increasing American competitive strength lies with ending triple damages.

Baxter told the committees the chilling effect of triple damages for minor antitrust violations does "more damage by a wide measure" than its force in deterring the serious anticompetitive violations.

"It's misperceived to be a protection for the consumer," said Baxter.

In his testimony, Baldrige focused on how to ease the way for American companies to join in research projects such as Inman's Microelectronics and Computer Technology Corp. (MCC), formed by 13 U.S. high-tech firms. The Commerce secretary called joint R&D programs "procompetitive" because "they reduce duplication, promote the efficient use of scarce technical personnel and help to achieve desirable economies of scale."

He said major trading partners and overseas competitors such as Japan, France and the European Economic Community allow joint R&D under their antitrust laws. American companies, however, hesitate to get involved because of the risk that joint ventures will be found to violate antitrust laws and the companies could face triple damages penalties and criminal sanctions.

WASHINGTON

EXPERTS ASK CONGRESS FOR HELP IN HI-TECH MARKETS

BY SUSANNE M. SCHAFER

STATINTL

Educators and computer experts, including former CIA deputy director Adm. Bobby Inman, asked Congress on Wednesday to help American companies fight off Japanese firms that are threatening to take over high-technology markets.

"We have to keep in focus that international trade is an integral part of our national security and helps to hold together our alliances," Inman told a House Science and Technology subcommittee.

Inman warned that unless U.S. firms are able to remain competitive, "we may become involved in trade wars, which could lead to the breakup of our alliances."

The 62-year-old Inman, who also served as head of the National Security Agency, was recently named president of the MCC Corp. The group is a consortium of more than a dozen U.S. firms involved in developing supercomputers and supporting high-technology research in response to recent advances, made particularly by the Japanese.

He appeared with a panel of educators, researchers, and computer experts at a hearing examining the success of the Japanese government's sponsorship and research in industry. The committee is seeking to develop a U.S. response to help firms hold markets the Japanese are beginning to control.

Rep. Doug Walgren, D-Pa., who sponsored the hearing with Rep. Albert Gore Jr., D-Tenn., said there is "evidence that some Japanese companies have engaged in illegal foreign trade practices and piracy of American technology."

But Walgren added that it was due to "Japan's overall pursuit of high-tech innovation and product quality (which) threatens our leadership in the international marketplace."

"As Japan's share of world trade in high-technology items has tripled since 1962, the U.S. share during the same time has decreased by almost 30 percent," said Gore. "Whatever admiration we feel for Japan's industrial success must be tempered by alarm over our own declining position in the world's high-technology community."

Gore pointed out that some individual Japanese companies have led the move to new technologies, but Japan's Ministry of International Trade and Industry has helped industry embark on major programs to develop high-speed computers, artificial intelligence computers, biotechnology, and the semiconductor industry.

John W. Lacey, executive vice president of the Control Data Corp., told the panel that the Japanese strategy is to import a basic technology from the West, enhance it through government-sponsored research and development, protect the industry from foreign competition in the home market, and then move into the world market.

CONTINUED

2.

By "targeting" certain industries, Lacey said, the Japanese are able to dominate certain markets, with "the result for U.S. firms at best in reduced profits, fewer jobs, and reduced ability to invest ..."

He added that "this highly sophisticated, well-coordinated and superbly executed strategy has its foundation in government promoted cooperation ..."

Harvey Brooks, a Harvard University professor of technology and public policy, said that in contrast to the Japanese, the United States is "unduly obsessed with competition as the driving force for innovation."

The Japanese have been able to find a middle ground that allows for cooperation in the early stages of product development while still maintaining competition in the later product stages, Brooks said.

Also very important, he said, is their highly educated work force and the emphasis the Japanese place on on-the-job training.

Inman and the others suggested that Congress consider expanded tax credits for certain types of research and development and clarify anti-trust laws to allow competing firms to enter into joint research and development programs.

They also suggested the government improve its support for education in high-technology fields by giving corporations tax credits for grants to graduate students.

HOUSTON, PITTSBURGH

STATINTL

MORE CIL RIGS IDLE THIS WEEK, RETIRED ADMIRAL NAMED TO DRAVO BOARD

Dravo Corp., which has interests in engineering, manufacturing and natural resources, said Monday that retired Navy Admiral Bobby R. Inman has been elected to the firm's board of directors.

Inman, 52, is president and chief executive officer of Microelectronics and Computer Technology Corp., a 10-month-old firm formed by 13 American companies to conduct research and development for the electronics industry.

Inman was director of naval intelligence from 1974 to 1976, director of the National Security Agency from 1977 to 1981 and deputy director of the Central Intelligence Agency from 1981 to 1982.

WASHINGTON

FORMER CIA OFFICIAL ASKS TAX CREDIT FOR NEW COMPUTERS

INMAN-SUPERCOMPUTERS

Bobby R. Inman, a former CIA deputy director now heading a consortium of American high-technology companies, told Congress Friday that federal tax credits will be vital for promoting development of new supercomputers.

Testifying before a House Science and Technology subcommittee, Inman also stressed the need for re-examining U.S. antitrust laws so that pooling of research resources in crucial advanced-technology areas will not be unduly hindered.

Inman, who served as chief of the National Security Agency as well as the CIA's deputy director, pointed to the challenge being posed to this country by Japan's government-supported drive for supremacy in next-generation computers.

"We neglect that at our own potential economic peril \_ and potential national security peril," the retired admiral said.

Inman is now president and chief executive officer of the Microelectronics and Computer Technology Corp., a joint venture of 12 high-technology companies. The consortium recently decided to establish its headquarters in Austin, Tex.

In his testimony, Inman criticized an Internal Revenue Service draft regulation that would bar companies from obtaining federal tax credits for development of computer software \_ the complex electronic instructions needed to run computers.

He harked back to his own experience as head of the NSA, which collects and analyzes huge amounts of electronic intelligence worldwide.

"I spent a lot of the taxpayers' money over 10 years buying lead state-of-the-art surveillance systems, computer systems," Inman told the House panel. "In almost every case, the most demanding area of success \_ the area with the largest cost overruns \_ was in software development."

Inman said he was confident the new computer consortium is "absolutely within the letter and the spirit of the antitrust laws." But he said Congress should revise some provisions of the antitrust laws to minimize potential legal ambiguities and the risk of antitrust suits.

# This President Wants Silence By Censorship

## Reagan's new rule could gag officials for life

By Frank Snepp

WHEN THE SUPREME Court ruled against me in 1980 and upheld the enforceability of government secrecy agreements, my father — who is a conservative superior court judge — predicted that "one of these days some patriot in the White House will realize the power the Brethren have given him," and saddle us with a system of censorship such as we've never seen in this country.

My father has been proven right. President Reagan, citing *Snepp v. U.S.*, has decreed that every bureaucrat "with authorized access to classified information shall be required to sign a nondisclosure agreement. . . ."

This order will obligate some bureaucrats to submit all work-related writings for government censorship for the rest of their lives. And the Supreme Court made clear in my case that these government workers won't even have to sign secrecy agreement to become censorship candidates. All they have to do is get assigned to an official "position of trust" with "conceded access to confidential sources and materials." From that point on, they're implicitly obligated not to publish anything, classified or not, about their work, without official approval. Forever.

In a "fact sheet" attached to the Reagan order, the Justice Department reminds all bureaucrats of this implicit "fiduciary duty." This clears the way for a censorship system that is virtually open-ended.

Steven Garfinkel, the official responsible for monitoring governmentwide security programs, has conceded to Congress that though he can't say for sure how many bureaucrats traffic in classified information, at least 65 official departments and agencies do. The mind boggles at the potential number of gag victims this estimate implies. The 11 agencies that make up the U.S. intelligence community, by themselves, are 200,000-strong.

In practical terms, if the Reagan order is enforced, many of the turnstile bureaucrats who come and go with each administration will be out of business.

Will the  
look favor  
former rep  
partment c  
the State D  
Would th  
at Georgeto  
brace such  
patrick or R  
Would th

Heritage Foundation who've served the Reagan White House be happy about being censored by the liberal constituents of a Mondale, Glenn or Cranston administration?

You don't need a definitive answers to these questions to view the Reagan order as ill-conceived and dangerous.

Predictably, the administration has had a problem selling its scheme. Deputy Assistant Attorney General Richard Willard, principal author of the Reagan directive, initially claimed that the secrecy agreements were needed to stem a flood tide of leaks which "has increased in severity over the past decade." But then Garfinkel, the government's designated auditor of leaks, conceded to a congressional subcommittee that only a half-dozen leaks had been reported to his office in the past three years.

Willard tried to recoup. In a TV interview, he said it wasn't the quantity or severity of leaks that necessitated the gag rule. Rather, it was the worries of our allies — their "lack of confidence in our government's ability to keep secret important information. . . ."

Since most of our allies (witness the British) have far more stringent secrecy regulations than we do — and far more serious security problems — Willard's attempt to justify the Reagan directive is a token of how desperate his case has become. And no wonder. Numerous authoritative voices have been raised against its assumptions.

Writing in *Foreign Policy* last fall, former CIA Director Stansfield Turner declared: "Fortunately, while several leaks about actual espionage in the past six or seven years have involved serious breaches of security, very little information harmful to U.S. intelligence interests has been revealed. In short, the impression that intelligence agencies cannot keep secrets is highly exaggerated."

Former Deputy CIA Director Bobby Inman has also cast doubt on the wisdom of the administration crackdown. Last winter he told *U.S. News & World Report* that the

CONTINUED

## TILTING AT WINDMILLS STATINTL

Perhaps you already know these facts about the CIA, but in case you didn't, here they are quoted from an article reprinted in the *World Press Review* from the Australian *Sydney Morning Herald*: "The budget for the CIA in fiscal 1985 has been increased 25 percent. . . . The CIA staff, which had shrunk to 14,000 during the Carter administration, is now more than 16,000. . . . Its deputy director, Admiral Bobby Inman, resigned last year largely because of the agency's use of unsavory friends, particularly former Nicaraguan National Guards."

The *Morning Herald* goes on to quote Inman as saying: "The potential value of covert action is greatly overemphasized, and problems tend to be neglected. An unfriendly government that you know may be easier to deal with than one you have helped install that does not have the capacity to govern."

You may recall that I view *Never Leave The City Where The Good Bars Are* as the guiding principle of life overseas in the State Department, in the CIA, and among the foreign correspondents of the American press. The latest illustration is that the bomb that exploded at the embassy in Beirut wiped out the entire CIA contingent for Lebanon. You may also remember that one reason the CIA had difficulty finding out what was going on in Iran after the hostages were taken was that all its operatives were inside the embassy compound when it was seized by the mob.

—Charles Peters  
STATINTL

STATINTL

*Angelo Codevilla is a professional staff member with the Senate Intelligence Committee. Previously, he was a foreign service officer and a fellow at the Hoover Institution, Stanford University. Dr. Codevilla has written widely on European politics and in the field of intelligence and military policy.*

**Angelo Codevilla.**

STATINTL\*

*By focusing so exclusively on rules and standards of operations, the intelligence debate of the mid-1970s did not answer the fundamental question of what the United States expects of its intelligence services or what they are to accomplish in order to meet the challenges of the 1980s.*

## The Substance and the Rules

Since the early 1970s, this country's intelligence agencies have been asking, "What does the country expect of us?" That question had not arisen in the postwar period because the American political system had left the agencies to the total discretion of those appointed to lead them. In the early 1970s, factional conflict among those leaders spilled over into a national debate about what America's practitioners of intelligence ought to have foremost in mind. That debate continues.

Recently, Admiral Stansfield Turner, President Carter's Director of Central Intelligence, and his former special assistant, George Thibault, published an attempt both to answer that question and to indict the Reagan administration's handling of intelligence. The author's answer seems to be that

the American people expect their intelligence agencies to be as innocuous as possible. They charge that the Reagan administration is undermining the agencies by loosening too many restrictions. The authors thus contend that for our civil liberties' sake, and for the sake of the agencies' own standing in the country, the agencies ought to concentrate on formulating for themselves the right kinds of rules and restrictions. However, one would not suspect from Turner and Thibault's article that the rules by which intelligence officers live ought to flow from the intelligence profession's substantive requirements.

Nevertheless, in intelligence as in other areas of government, the American people rightly want their employees to accomplish the functions for which they are paid. This author will argue that Stansfield Turner is

CONTINUED